

The Honorable Richard A. Jones

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

CARLOS DEMARK DENNIS,

Defendant.

NO. 2:18-cr-00131-RAJ

ORDER ON DEFENDANT’S MOTION
REGARDING INEFFECTIVE
ASSISTANCE OF COUNSEL AND FOR
RECONSIDERATION OF SENTENCE

Carlos Demark Dennis is a 43-year-old inmate currently detained at Federal Correctional Institution Sheridan, with a projected release date of May 23, 2024. On September 24, 2020, the Court denied his motion for compassionate release. Dkt. 1458. On January 7, 2021, the Court denied his motion for reconsideration of the order denying compassionate release and motion to reduce sentence. Dkt. 1517. On May 13, 2021, the Court denied his motion for reconsideration of sentence regarding criminal history points and custody level. Dkt. 1541. Now before the Court is Defendant’s *pro se* motion regarding ineffective assistance of counsel and for reconsideration of his sentence. Dkt. 1548.

Having considered Mr. Dennis’ motion, and the files and pleadings herein, the Court hereby **DENIES** the motion for the reasons set forth below.

Motions for reconsideration are usually disfavored and will be granted only upon “a showing of manifest error in the prior ruling or a showing of new facts or legal

1 authority which could not have been brought to [the Court's] attention earlier with
2 reasonable diligence.” Local Rules W.D. Wash. LCR 7(h)(1).

3 In Mr. Dennis’ renewed motion for reconsideration of his sentence, for the fourth
4 time he sets forth the same or substantially similar facts and arguments made in his
5 original motion for compassionate release. He addresses the conditions of his
6 confinement and his claims of lack of medical treatment for his various health conditions.
7 The Court finds that no new evidence has been presented by Mr. Dennis related to his
8 health conditions to justify reversal of the Court’s prior decisions, nor a reconsideration
9 of his sentence.

10 Mr. Dennis’ motion contains new arguments regarding ineffective assistance of
11 counsel. He argues that his defense attorney (1) misled him into accepting a plea, (2)
12 failed to pursue a bond hearing, and (3) failed to obtain a psychological evaluation for
13 him until after his plea had been entered. Dkt. 1548.

14 In his Plea Agreement, Mr. Dennis waived his right to appeal his sentence. The
15 Plea Agreement precluded his “right to bring a collateral attack against his conviction and
16 sentence . . . except as it may relate to the effectiveness of legal representation[.]” Dkt.
17 1016, ¶ 17(b). Inherent in this language is the preservation of Mr. Dennis’ right to appeal
18 his sentence based on ineffective assistance of counsel, either through a direct appeal to
19 the Ninth Circuit Court of Appeals or through a post-conviction petition pursuant to 28
20 U.S.C. § 2255. Mr. Dennis did not pursue a direct appeal of his sentence to the Ninth
21 Circuit based on grounds of ineffective assistance of counsel.

22 The government argues that Mr. Dennis’ motion alleging ineffective assistance of
23 counsel, which can now only be brought pursuant to § 2255, should be denied as
24 untimely. Under that statute, to be timely, a motion alleging ineffective assistance of
25 counsel must have been filed within one year of Mr. Dennis’ conviction, which occurred
26 back on January 24, 2020. Dkt. 1556.

1 Even had the allegations of ineffective assistance been timely made, the
2 government argues they are without merit and that he was not prejudiced by his
3 attorneys' decisions. Dkt. 1556.

4 The Court agrees with and adopts in full the government's analysis on both
5 timeliness and on the merits as to Mr. Dennis' claims of ineffective assistance of counsel.

6 For the reasons set forth above, Defendant Carlos Demark Dennis' Motion
7 Regarding Ineffective Assistance of Counsel and for Reconsideration of Sentence
8 (Dkt. 1548) is **DENIED**.

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10 DATED this 3rd day of January, 2021.

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13 The Honorable Richard A. Jones
14 United States District Judge
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